

**INDIVIDUAL MOTION PRACTICES OF
MAGISTRATE JUDGE E. THOMAS BOYLE
United States District Court
100 Federal Plaza
Central Islip, New York 11722
Telephone: (631) 712-5710
Dolores Joy, Administrative Assistant
Lisa Lundy, Magistrate Clerical
Telephone: (631) 712-5714
Hours: None Listed**

Electronic Case Filing (ECF) Requirements:

On June 22, 2004, the Board of Judges of the Eastern District of New York issued an Administrative Order requiring that "Beginning on August 2, 2004, electronic case filing will be mandatory for all civil cases other than pro se cases and for all criminal cases." A copy of that order is available on the District's web page at www.nyed.uscourts.gov.

- 1. FAILURE TO COMPLY WITH THE ECF REQUIREMENTS WILL RESULT IN THE REJECTION OF PAPERS THAT ARE NOT ELECTRONICALLY FILED.**

- 2. COURTESY COPIES SHOULD BE FORWARDED TO CHAMBERS BY OVERNIGHT DELIVERY ONLY WHEN IN EXCESS OF TWENTY (20) PAGES. ALL SUCH PAPERS MUST BE CLEARLY MARKED "COURTESY COPY" AND INDICATE THAT THE ORIGINAL WAS FILED BY ECF.**

3. Attorneys are reminded that all requests for adjournments or extensions of time must be made in writing at least 48 hours prior to the scheduled appearance or deadline. Although this rule was already in effect, attorneys are on notice that the rule will now be strictly enforced because notification of an electronic filing is not received by chambers until the following business day. Accordingly, untimely requests will not be considered.

4. Attorneys will receive decisions and notifications from the court electronically. Accordingly, attorneys are responsible for keeping their e-mail addresses current with the Clerk's Office.

Please go the www.nyed.uscourts.gov web page for additional information about electronic case filing and training, or contact Cinthia Mahon in Central Islip at (631) 712-6011 or Terry Vaughn in Brooklyn at (718) 260-2330.

Motions Returnable: Any day.

Unless otherwise ordered by the judge in a specific case, matters before the judge shall be conducted in accordance with the following practices:

1. *Communications with Chambers*

A. *Letters.* Except as provided below, communications with chambers shall be by ECF letter. Copies of correspondence between counsel shall not be sent to the Court.

B. *Telephone Calls.* Telephone calls to chambers are permitted only in emergency situations requiring immediate attention. In such situations only, call chambers at the number listed above.

C. *Docketing, Scheduling and Calendar Matters.* For docketing, scheduling and calendar matters, call the contact listed above during the hours specified.

D. *Request for Adjournments or Extension of Time.* All requests for adjournments or extensions of time must state (1) the original date, (2) the number of previous requests for adjournment or extension, (3) whether these previous requests were granted or denied, and (4) whether the adversary consents, and, if not, the reasons given by the adversary for refusing to consent. If the requested adjournment or extension affects any other scheduled dates, a proposed Revised Scheduling order must be attached. If the request is for an adjournment of a court appearance, absent an emergency it shall be made at least 48 hours prior to the scheduled appearance.

2. *Motions*

A. *Pre-Motion Conferences in Civil Cases.* For discovery motions, follow Local Civil Rules 37.3 or 6.1 (no pre-motion conference is required). Letters shall not exceed three (3) pages. No reply is accepted on letter motions (see Local Civil Rule 37.3(c)). For motions other than discovery motions, a pre-motion conference with the court is required before making any dispositive motion, motion for a change of venue or to amend a pleading pursuant to Rule 15 of the Fed. R. Civ. P. where leave of court is required. The request should be made to the assigned Article III judge, consistent with that judge's individual rules, unless the parties have consented to Magistrate Judge jurisdiction, pursuant to 28 U.S.C. § 636(c).

To arrange a pre-motion conference, the moving party shall file a letter not to exceed three (3) pages in length setting forth the basis for the anticipated motion. All parties so served must serve and file a letter response, not to exceed three (3) pages within seven (7) days from service of the notification letter. Service of the letter by the moving party within the time requirements of Rule 12 of the Fed. R. Civ. P. shall constitute timely service of a motion made pursuant to ap 12(b).

B. *Courtesy Copies.* In addition to motion papers, courtesy copies of pleadings, marked as such, shall be submitted to chambers, upon ECF filing.

C. *Memoranda of Law.* Unless prior permission has been granted, memoranda of law in support of and in opposition to motions are limited to 25 pages, and reply memoranda are limited to 10 pages. Memoranda of 10 pages or more shall contain a table of contents.

D. *Filing of Motion Papers.* No motion papers shall be filed until the motion has been fully briefed.

The parties are to set up their own briefing schedule. The parties may revise the schedule on consent, informing chambers by letter.

The original moving party shall be responsible for filing all motion papers. Such party is further obligated to furnish to chambers a full set of courtesy copies of the motion papers together with a cover letter specifying each document in the package. A copy of the cover letter shall be sent to the assigned magistrate judge and to opposing counsel.

E. *Oral Argument on Motions.* Any party may request oral argument by letter at the time the motion is filed. The court will determine whether argument will be heard and, if so, will advise counsel of the argument date.

F. Paragraphs A and D above do NOT apply to any of the motions described in Federal Rule of Appellate Procedure 4(a)(4)(A), which should be timely filed without a pre-motion conference and prior to any opposition.

3. *Pre-trial Procedures*

Joint pre-trial orders are not required unless specifically directed by the court in a particular case.

A. Each party shall provide:

i A list of any fact and expert witnesses whose testimony is to be offered at trial, indicating whether the witnesses will testify in person or by deposition. Only listed witnesses will be permitted to testify except when prompt notice has been given and good cause shown.

ii A list of exhibits to be offered at trial. All exhibits shall be pre-marked. An original and two (2) copies shall be submitted to the court at the start of the trial.

B. *Filings Prior to Trial in Civil Cases.* Each party shall file, no later than the Thursday prior to trial:

- i. In a jury trial, requests to charge and proposed voir dire questions. Requests to charge should address the elements of the claims, the damages sought and defenses. General instructions will be prepared by the court;
- ii. In a non-jury trial, a statement of the elements of each claim or defense involving such party, together with a summary of the facts relied upon to establish each element;
- iii. In all trials, any motion addressing any evidentiary issues; and
- iv. In any trial where a party believes it would be useful, a pre-trial memorandum of law.

10/18/05